

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.727 OF 2006

John Pedru Vardekar and others	.. Appellants
v/s.	
Maruti Sitaram Mayekar and others	.. Respondents

Mr. B.G. Tangsali for the appellants.

CORAM : ABHAY S. OKA, J.
DATED : 29TH NOVEMBER, 2007

P.C.

Heard the advocate appearing for the appellants.

2. The appellants are the plaintiffs who filed suit for declaration claiming that they have perfected their title to the suit property by adverse possession and for consequential relief of perpetual injunction.

3. The suit was contested by the respondents. The learned trial Judge recorded a finding that the appellants were in possession of the suit property only to the extent of 1.5 gunthas, but they have failed to prove that they have become owners of the said portion by adverse possession. However, the trial court proceeded to pass a decree for perpetual injunction.

4. In the appeal preferred by the contesting defendants, the appellate court has interfered and dismissed the suit. The appellate court held that the original plaintiffs have failed to prove their possession and therefore, the plaintiffs were not entitled to any relief.

5. After having heard the submissions of the learned advocate for the appellants, I find that no substantial question of law arises. The appellate court, on the basis of the material on record, has come to the conclusion that after the demolition of the house, there was no material on record to show that the plaintiffs continued to be in possession of the land below the house. The appellate court has referred to the panchanama drawn by the revenue officers which shows that possession was handed over to one of the defendants.

6. In view of the findings of facts recorded by the appellate court, no case is made out for interference. Second appeal is, accordingly, dismissed.

ABHAY S. OKA, J.